

## **REGULATIONS FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION (LLM[ARB&DR])**

*(These regulations apply to candidates admitted to the LLM(ARB&DR) curriculum in the academic year 2016-17 and thereafter.)*

*(See also General Regulations and Regulations for Taught Postgraduate Curricula)*

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### **LLMADR1. Admission Requirements**

To be eligible for admission to the courses leading to the degree of Master of Laws in Arbitration and Dispute Resolution, a candidate

- (a) shall comply with the General Regulations and the Regulations for Taught Postgraduate Curricula;
  - (b)
    - (i) shall hold the degree of Bachelor of Laws with at least second class honours of this University, or a qualification of equivalent standard from this University or another comparable institution accepted for this purpose; or
    - (ii) shall hold the degree in a discipline other than law with at least second class honours of this University, or a qualification of equivalent standard from this University or another comparable institution accepted for this purpose; and have at least two years of relevant experience and professional qualifications; or
    - (iii) shall have obtained either the Common Professional Examination of England and Wales or the Common Professional Examination Certificate of this University provided that in either case the candidate has also obtained a degree with at least a second class honours of this University, or a qualification of equivalent standard from this University or another comparable institution accepted for this purpose; and
  - (c) for a candidate who is seeking admission on the basis of a qualification from a university or comparable institution outside Hong Kong of which the language of teaching and/or examination is not English, shall satisfy the University English language requirement applicable to higher degrees as prescribed under General Regulation G2(b).
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### **LLMADR2. Advanced standing**

Advanced Standing may be granted to candidates in recognition of studies completed successfully no more than 5 years before admission to the curriculum. Candidates who are awarded Advanced Standing will not be granted any further credit transfer for those

studies for which Advanced Standing has been granted. The amount of credits to be granted for Advanced Standing shall be determined by the Board of the Faculty of Law, in accordance with the following principles:

- (a) a candidate may be granted a total of not more than 9 credits (one course) for Advanced Standing unless otherwise approved by the Senate; and
  - (b) credits granted for Advanced Standing shall not normally be included in the calculation of the GPA unless permitted by the Board of the Faculty of Law but will be recorded on the transcript of the candidate.
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**LLMADR3. Period of study**

- (a) The curriculum for the degree of Master of Laws in Arbitration and Dispute Resolution shall normally require one academic year of full-time study or two academic years of part-time study, and shall include any assessment to be held during and/or at the end of each semester including summer semester.
  - (b) Candidates shall not in any case be permitted to extend their studies beyond the maximum period of registration of two academic years in the case of full-time candidates and three academic years in the case of part-time candidates, unless otherwise permitted or required by the Board of the Faculty of Law.
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**LLMADR4. Completion of curriculum**

To complete the curriculum for the degree of Master of Laws in Arbitration and Dispute Resolution, a candidate shall

- (a) satisfy the requirements prescribed under TPG 6 of the Regulations for Taught Postgraduate Curricula; and
  - (b) satisfactorily complete 72 credits in the case of a full-time study in one academic year, including a capstone experience, or 36 credits in the case of a part-time study in each of the two academic years of study, including a capstone experience.
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**LLMADR5. Selection of courses**

- (a) Candidates shall select their courses in accordance with these regulations and the guidelines specified in the syllabus before the beginning of each semester. Changes to the selection of courses may be made only during the add/drop period of the semester in which the course begins, and such changes shall not be reflected in the transcript of the candidate. Requests for changes after the designated add/drop period of the semester shall not normally be considered.

- (b) Withdrawal from courses beyond the designated add/drop period will not be permitted, except for medical reasons or with the approval of the Board of the Faculty of Law. Withdrawal without permission will result in a fail grade in the relevant course(s).
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**LLMADR6. Dissertation**

- (a) Candidates, whether full-time or part-time, who elect to submit a dissertation shall submit the title not later than six months before presenting the dissertation for examination. The dissertation must be presented not later than August 31 of the year in which the candidate would like to graduate.
- (b) In exceptional circumstances a candidate may apply to the Board of the Faculty of Law for an extension of the period within which the dissertation must be presented at least three months before the prescribed date of submission. Late applications for extension will not be considered, except for medical reasons or with the approval of the Board of the Faculty of Law.
- (c) The candidate shall submit a statement that the dissertation represents his or her own work undertaken after registration as a candidate for the degree. The examiners may require an oral examination on the subject of the dissertation.
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**LLMADR7. Progression in curriculum**

- (a) Candidates shall normally be required to undertake a combination of courses and study requirement as prescribed in these regulations and the syllabus, and in the manner as specified below, unless otherwise permitted or required by the Board of the Faculty of Law:
- (i) Candidates who are on a one-year full-time mode of study shall normally be required to take not fewer than 27 credits nor more than 36 credits in any one semester (not including the summer semester).
- (ii) Candidates who are on a two-year part-time mode of study shall normally be required to take not fewer than 9 credits nor more than 18 credits in any one semester (not including the summer semester).
- (iii) Where candidates are required to make up for failed credits, the Board of the Faculty of Law may give permission for candidates to exceed the required curriculum study load of 72 credits.
- (iv) In each case under (i) or (ii) above, the total number of credits taken shall not exceed the required curriculum study load of 72 credits for the normative period of study specified in LLMADR3(a).

- (b) Candidates may, with the approval of the Board of the Faculty of Law, transfer credits for courses completed at other institutions during their candidature. The number of transferred credits may be recorded in the transcript of the candidate, but the results of courses completed at other institutions shall not be included in the calculation of the GPA. The combined total number of credits to be granted for Advanced Standing and credit transfer shall not exceed half of the total credits normally required under the curriculum of the candidates during their candidature at the University.
  - (c) Unless otherwise permitted by the Board of the Faculty of Law, candidates shall be recommended for discontinuation of their studies if they have:
    - (i) failed to complete successfully 45 or more credits (under one-year full-time study) or 18 or more credits (under two-year part-time study) in two consecutive semesters (not including the summer semester), except where they are not required to take such a number of credits in the two given semesters, or
    - (ii) failed to achieve an average semester GPA of 1.5 or higher for two consecutive semesters (not including the summer semester); or
    - (iii) exceeded the maximum period of registration specified in LLMADR3(b).
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**LLMADR8. Exemption**

Candidates may be exempted, with or without special conditions attached, up to 9 credits (one course) in the requirement prescribed in the regulations and the syllabus governing the curriculum with the approval of the Board of the Faculty of Law, except in the case of a capstone experience. Approval for exemption of a capstone experience may be granted only by the Senate with good reasons. Candidates who are so exempted must replace the number of exempted credits with courses of the same credit value.

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**LLMADR9. Assessment**

- (a) Candidates shall be assessed for each of the courses for which they have registered, and assessment may be conducted in any combination of continuous assessment of coursework, written examinations and/or any other assessable activities. Only passed courses will earn credits.
- (b) Candidates suspended under Statute XXXI shall not be allowed to take, present themselves for, and participate in any assessments during the period of suspension, unless otherwise permitted by the Senate.
- (c) Candidates shall not be permitted to repeat a course for which they have received a passing grade for the purpose of upgrading.

- (d) Candidates are required to make up for failed courses in the following manner:
    - (i) undergoing re-assessment/re-examination in the failed course to be held no later than the end of the following semester (not including the summer semester); or
    - (ii) re-submitting failed coursework, without having to repeat the same course of instruction; or
    - (iii) repeating the failed course by undergoing instruction and satisfying the assessments; or
    - (iv) for elective courses, taking another course in lieu and satisfying the assessment requirements.
  - (e) Where candidates are permitted or required to present themselves for re-assessment/ re-examination/ assessment in an alternative course under (d) above, the new grade obtained together with the previous F grade shall be recorded on the transcript and be included in the calculation of the semester GPA, year GPA and the cumulative GPA. Such candidates shall not be eligible for any mark of distinction.
  - (f) There shall be no appeal against the results of examinations and all other forms of assessment.
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**LLMADR10. Absence from examination**

Candidates who are unable through illness to be present at the written of any course may apply for permission to present themselves at a supplementary examination of the same course to be held before the beginning of the First Semester of the following academic year. Any such application shall be made on the form prescribed within two weeks of the first day of the candidate's absence from any examination. Any supplementary examination shall be part of that academic year's examinations, and the provisions made in the regulations for failure at the first attempt shall apply accordingly.

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**LLMADR11. Requirements for graduation**

To be eligible for the award of the degree of Master of Laws in Arbitration and Dispute Resolution, candidates shall comply with the General Regulations and the Regulations for Taught Postgraduate Curricula, and complete the curriculum and satisfy the examiners in not fewer than 72 credits in accordance with these regulations within the maximum period of registration, which shall include the successful completion of a capstone experience as specified in the syllabus of the curriculum.

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**LLMADR12. Grading system**

Individual courses shall be graded in accordance with TPG9 (a) of the Regulations for Taught Postgraduate Curricula as determined by the Board of Examiners.

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**LLMADR13. Classification of awards**

Upon successful completion of the curriculum, candidates who have shown exceptional merit may be awarded the degree with distinction as determined by the Board of Examiners, and this mark shall be recorded in the candidates' degree diploma.

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## **SYLLABUSES FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION**

### **COURSEWORK**

The Board of Examiners shall decide what proportion of the final assessment for each course shall be determined by written work carried out during the course of study. Candidates will be informed at the beginning of the course of the relative proportions of the final assessment to be derived from coursework and from written examinations which will be held at the end of the teaching programme.

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### **OBJECTIVES**

Hong Kong is an ideal venue for the arbitration and mediation of disputes arising from international commercial and financial investment in Hong Kong, Mainland China and the rest of Asia. As the Hong Kong Special Administrative Region Government has stated its goal of further enhancing Hong Kong as a leading regional and international centre for dispute resolution, the Faculty of Law is offering the degree of Master of Laws in Arbitration and Dispute Resolution to train professionals with the necessary knowledge, skills and expertise in dispute resolution methods, particularly negotiation, mediation and arbitration. This specialised postgraduate degree programme is part of a comprehensive arbitration and dispute resolution teaching and research initiative of the Faculty of Law. This initiative seeks to (a) better serve the dispute resolution needs of Hong Kong's business, commercial and broader community; and (b) advance the Faculty as a regional and international centre of excellence in the teaching and research of negotiation, mediation, arbitration and dispute resolution generally.

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### **DISSERTATION**

An 18-credit dissertation shall comprise a paper with required length ranging from 16,000 to 20,000 words on a legal topic approved by the Faculty Higher Degrees Committee. A 9-credit dissertation shall comprise a paper on a legal topic likewise approved with required range from 8,000 to 10,000 words. In both cases the dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

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### **STRUCTURE**

Candidates are required to complete 72 credits, including the required compulsory courses and a capstone experience in accordance with the regulations for this degree and the syllabus as set out in either A or B below.

**A. Candidates with a degree in law will follow the following syllabus:**

**Compulsory courses**

- LLAW6138 Arbitration law (9 credits)
- LLAW6157 Arbitration practice, procedure and drafting (9 credits)
- LLAW6161 Mediation (9 credits)

**Capstone course**

- LLAW6135 Alternative dispute resolution (Capstone) (9 credits)

**Electives** (*Candidates must choose four courses from the list below.*)

- LLAW6187 Advanced topics in competition law (9 credits)
- LLAW6241 Arbitration award writing (9 credits)
- LLAW6185 China investment law (9 credits)
- LLAW6186 China trade law (9 credits)
- LLAW6162 Collaborative law and practice (9 credits)
- LLAW6238 Comparative arbitration in Asia (9 credits)
- LLAW6150 Comparative law (9 credits)
- LLAW6252 Construction of commercial contracts (9 credits)
- LLAW6207 Corporate conflicts (9 credits)
- LLAW6082 Corporate governance and shareholder remedies (9 credits)
- LLAW6171 Corruption: China in comparative perspective (9 credits)
- LLAW6267 Courts (9 credits)
- LLAW6217 Culture, diversity and power in dispute resolution (9 credits)
- LLAW6214 Current issues in Chinese law (9 credits)
- LLAW6173 Dispute resolution systems design (9 credits)
- LLAW6054 9-credit Dissertation\* (9 credits)
- LLAW6014 18-credit Dissertation\* (18 credits)
- LLAW6174 Family mediation (9 credits)
- LLAW6222 Financial dispute resolution: Hong Kong & international perspectives (9 credits)
- LLAW6107 Insurance law (9 credits)
- LLAW6132 International and comparative intellectual property law (9 credits)
- LLAW6237 International arbitration: practice, process and strategy (9 credits)
- LLAW6099 International commercial arbitration (9 credits)
- LLAW6007 International dispute settlement (9 credits)
- LLAW6133 International economic law (9 credits)
- LLAW6037 International environmental law (9 credits)
- LLAW6182 International organizations (9 credits)
- LLAW6128 International trade law I (9 credits)
- LLAW6170 Introduction to information technology law (9 credits)
- LLAW6227 Introduction to private international law (Conflict of laws) (9 credits)
- LLAW6230 Law and practice of investment treaty arbitration (9 credits)
- LLAW6029 Managing commercial disputes in China: law, issues and techniques (9 credits)
- LLAW6163 Negotiation: settlement and advocacy (9 credits)
- LLAW6176 Online dispute resolution (9 credits)
- LLAW6196 Preventative law: approach to conflict prevention (9 credits)

- LLAW6164 Principles of family law (9 credits)
- LLAW6109 Public international law (9 credits)
- LLAW6141 Regulation of cyberspace: Theories of internet and normativity (9 credits)
- LLAW6211 World trade law, policy and business (9 credits)

**B. Candidates with a degree in a discipline other than law will follow the following syllabus:**

**Compulsory courses**

- LLAW6138 Arbitration law (9 credits)
- LLAW6157 Arbitration practice, procedure and drafting (9 credits)
- LLAW6158 Contract law (9 credits)
- LLAW6159 Evidence (9 credits)
- LLAW6160 Legal system and methods (9 credits)
- LLAW6161 Mediation (9 credits)

**Capstone course**

- LLAW6135 Alternative dispute resolution (Capstone) (9 credits)

**Electives** (*Candidates must choose one course from the list below.*)

- LLAW6187 Advanced topics in competition law (9 credits)
- LLAW6241 Arbitration award writing (9 credits)
- LLAW6185 China investment law (9 credits)
- LLAW6186 China trade law (9 credits)
- LLAW6162 Collaborative law and practice (9 credits)
- LLAW6238 Comparative arbitration in Asia (9 credits)
- LLAW6150 Comparative law (9 credits)
- LLAW6252 Construction of commercial contracts (9 credits)
- LLAW6207 Corporate conflicts (9 credits)
- LLAW6082 Corporate governance and shareholder remedies (9 credits)
- LLAW6171 Corruption: China in comparative perspective (9 credits)
- LLAW6267 Courts (9 credits)
- LLAW6217 Culture, diversity and power in dispute resolution (9 credits)
- LLAW6214 Current issues in Chinese law (9 credits)
- LLAW6173 Dispute resolution systems design (9 credits)
- LLAW6054 9-credit Dissertation\* (9 credits)
- LLAW6174 Family mediation (9 credits)
- LLAW6222 Financial dispute resolution: Hong Kong & international perspectives
- LLAW6107 Insurance law (9 credits)
- LLAW6132 International and comparative intellectual property law (9 credits)
- LLAW6237 International arbitration: practice, process and strategy (9 credits)
- LLAW6099 International commercial arbitration (9 credits)
- LLAW6007 International dispute settlement (9 credits)
- LLAW6133 International economic law (9 credits)
- LLAW6037 International environmental law (9 credits)
- LLAW6182 International organizations (9 credits)
- LLAW6128 International trade law I (9 credits)
- LLAW6170 Introduction to information technology law (9 credits)

- LLAW6227 Introduction to private international law (Conflict of laws) (9 credits)
- LLAW6230 Law and practice of investment treaty arbitration (9 credits)
- LLAW6029 Managing commercial disputes in China: law, issues and techniques (9 credits)
- LLAW6163 Negotiation: settlement and advocacy (9 credits)
- LLAW6176 Online dispute resolution (9 credits)
- LLAW6196 Preventative law: approach to conflict prevention (9 credits)
- LLAW6164 Principles of family law (9 credits)
- LLAW6109 Public international law (9 credits)
- LLAW6141 Regulation of cyberspace: theories of internet and normativity (9 credits)
- LLAW6211 World trade law, policy and business (9 credits)

\* subject to the approval of the Director of the Programme

***NOTE: Not all courses will be offered in any given year. For actual courses available, please refer to annual course offerings.***

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## **COURSE DESCRIPTIONS FOR THE DEGREE OF MASTER OF LAWS IN ARBITRATION AND DISPUTE RESOLUTION**

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### *Compulsory courses for all candidates*

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#### **LLAW6138 Arbitration law**

The aim of the Arbitration Law course is to provide students with sufficient knowledge and understanding of the law of arbitration. The specific educational learning outcomes of this course are as follows:

A. Knowledge and Understanding

- To introduce the fundamental principles of arbitration law set out in detail in the syllabus below.
- To introduce the importance of the Hong Kong Arbitration Ordinance when deciding disputes.
- To introduce the essential elements of a binding arbitration agreement and an enforceable arbitration award.
- To introduce the important role of reading and analyzing the sources of arbitration law, including both statutes (particularly domestic arbitration statutes such as the Arbitration Ordinance) and judicial decisions (case law).

B. Intellectual and Practice Skills

This course seeks to help students develop the following intellectual skills:

- Ability to analyse and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
- Ability to apply rules of law to hypothetical factual situations;
- Ability to isolate crucial issues in hypothetical factual scenarios; and
- Ability to support oral and written arguments using relevant judicial decisions and statutory provisions.

This course also seeks to help students develop the following practical skills:

- Ability to undertake the reading and research of the sources of arbitration law;
- Ability to express ideas both orally and in writing in a clear and coherent manner; and
- Ability to translate technical legal terms into language appropriate for users of arbitration and dispute resolution generally.

Students will consider a range of theoretical issues and substantive topics in this course, including:

- General Introduction to Arbitration and ADR
- Agreement to Arbitrate
- Appointment of Arbitrator
- Rights, Duties and Powers of an Arbitrator
- Commencement of Arbitration and Interlocutory Proceedings

- Arbitration Hearings
- Evidence in International Arbitration
- Costs & Interest in Awards
- Appeals
- Enforcement and Execution of Awards

Assessment: 70% written final examination; 30% research paper

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### **LLAW6157 Arbitration practice, procedure and drafting**

The aim of the Arbitration Practice, Procedure & Drafting course is to provide students with sufficient knowledge of and practice in the key procedural preliminary meetings and the hearings, discovery and inspection of documents, interlocutory proceedings, submissions, evidentiary issues, decision making and arbitration awards. There is particular focus on developing the students' ability to dispense independent advice of the arbitration process with confidence. The course also considers the knowledge and practice necessary to write a final, reasoned and enforceable arbitration award. The specific educational objectives of this course are:

- A. Knowledge and Understanding
- i) To introduce the fundamental elements of the practice and procedural elements of the arbitration process;
  - ii) To introduce the drafting requirements of an arbitration agreement;
  - iii) To introduce the key procedural features of the arbitration process, including preliminary meetings, discovery and inspection of documents, arbitration hearings, making submissions before an arbitrator or tribunal, making interlocutory applications, and the presentation and reception of evidence, decision making and arbitration awards; and
  - iv) To introduce the essential elements of how to draft a final, reasoned and enforceable arbitration award that is clear, cogent, comprehensive and concise.
- B. Intellectual and Practical Skills
- This course seeks to help students develop the following intellectual skills:
- i) Ability to analyze and solve complex factual legal problems by selecting and applying relevant arbitration law principles;
  - ii) Ability to apply rules of law to hypothetical factual situations;
  - iii) Ability to isolate crucial issues in hypothetical factual scenarios;
  - iv) Ability to support oral and written arguments using relevant judicial decisions and statutory provisions;
  - v) Ability to evaluate submissions and distil relevant issues from them;
  - vi) Ability to evaluate evidence, deduce facts from it; and
  - vii) Ability to decide issues and make rational decisions by applying legal principles to facts.
- i) This course also seeks to help students develop the following practical skills:
- viii) Ability to undertake the reading and research of the sources of arbitration law;
  - ix) Ability to express ideas both orally and in writing in a clear and concise manner;
  - x) Ability to translate technical legal terms into language appropriate for users of

- ii) arbitration and dispute resolution generally;
- xi) Ability to act as counsel in an arbitration proceeding and make oral and written submissions and interlocutory applications before an arbitrator or tribunal;
- iii) Ability to act as an arbitrator and control the arbitration process in a fair and impartial manner, giving the parties balanced opportunity to make submissions and present their cases;
- iv) Ability to give fair and rational procedural and substantive decisions within an arbitration hearing;
- v) Ability to select appropriate rules and procedures and apply them in a reasoned manner;
- vi) Ability to draft and publish a final, reasoned and enforceable arbitration award; and
- xiii) Ability to intelligently and intelligibly use language that is grammatically correct and correctly spelled.
- xiv) Ability to draft and publish a final, reasoned and enforceable arbitration award; and
- xv) Ability to intelligently and intelligibly use language that is grammatically correct and correctly spelled.

The following topics will be covered in the course:

- Drafting of an Arbitration Agreement
- Accepting Appointment as an Arbitrator
- Preliminary Matters
- Pleadings and Submissions
- Discovery and Inspection of Documents
- Interlocutory Proceedings
- Challenge to Jurisdiction
- Oral Evidence & Expert Evidence
- The Hearing
- Recoverable Costs and Offers
- Decision-making
- Arbitration Award Writing

The Arbitration Practice course is based upon a sound understanding of the law of arbitration. Therefore, students are required to complete the Arbitration Law course in the first semester prior to enrolling in the Arbitration Practice course in the second semester.

Pre-requisites: LLAW6138 Arbitration law

Assessment: 70% 3-hours written final examination, 30% written assignment  
(For CIArb credit, students must achieve a minimum of 55% of the final mark.)

## **LLAW6161 Mediation**

The mediation module is a comprehensive 40 hour module approved by the Hong Kong Mediation Accreditation Association Limited (HKMAAL) to satisfy Stage 1 of the mediator accreditation process. Participants are educated and trained in the process of mediation and the necessary skills required for effective mediation of disputes and are also assessed for HKMAAL mediator accreditation. While the participants will be

introduced to a broad range of dispute resolution processes, the course focuses specifically on the process of mediation, including the structure and phases of mediation, the essential communication skills, management of the mediation process and effective mediation skills.

The course teaches the facilitative model of mediation. Please note that this is not the only way a mediation can be conducted. It is also the process which course assessors will expect and the process which HKMAAL expects people to follow if they wish to sit for the Stage 2 mediator accreditation assessments after the course.

The teaching of the Mediation Skills Training Course relies on an interactive and role playing method of learning and participants must have sufficient command of English language to comprehend and express themselves in an articulate manner. The course involves education and training in the mediation process, management and communication skills and the core skills necessary to conduct an effective mediation. Case studies, large and small group discussions, role playing (of different parts - the mediator, mediating party and advisor), Faculty coaching, individual feedback and peer review are all utilised. The participants mediate simulated cases with Faculty observation and assessment of mediation performance. Participants must complete the practical spoken part of the mediation assessment and may also be required to submit written assignments as part of the course assessment e.g. dealing with mediated settlement agreements and other mediation issues.

Assessment: 50% participation in mediation role play simulations; 50% research assignment

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*Compulsory courses for candidates without a degree in law*

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**LLAW6158 Contract law**

This course is designed to provide students enrolled in the LLM in Arbitration and Dispute Resolution who do not have a first degree in law to acquire sufficient knowledge and understanding of the Hong Kong contract law. Students who thoroughly prepare for and participate in the course will be able to:

- understand the theoretical and practical aspects of Hong Kong contract law such as the legal principles of this subject.
- analyze contract law problems by spotting the legal issues in which contractual obligations arise, identifying the relevant principles of contract law and applying the law to the legal problems in order to reach a solution.
- understand the underlying philosophies and public policy considerations behind certain principles of contract law
- engage in discussion of a variety of legal issues surrounding contract law
- evaluate the functions that contract law plays in our society and the extent to which principles promote these functions.

The following topics will be covered:

Contractual and quasi-contract obligations: Introduction to contract law, contract types, formalities, formation and contents, privity and third party rights, offer and acceptance, intention to create legal relationship, consideration and estoppel, consent and certainty, terms, exemption clauses, effects and liabilities, performance and discharge, non-performance (breach), rules of remoteness and mitigation, remedies such as contractual damages, illegal contracts, undue influence, duress, unconscionability, fraud, mistake, misrepresentation, frustration, agency (principal/agent and effects on third party), unjust enrichment.

Assessment: 50% final examination; 30% mid-term closed book test; 20% pre-class preparation and in-class participation

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**LLAW6159 Evidence**

The aim of the course is to enable the students who do not have a first degree in law to acquire sufficient knowledge and understanding of the nature and law of evidence in a common law jurisdiction to act effectively as Hong Kong arbitrators. The following topics will be covered in the course:

- the fact finding process: facts in issue, facts relevant to facts in issue, relevance and prejudice – use of similar fact evidence in civil cases as an illustration

- legal burden; evidential burden; allocation of burdens with respect to specific issues
- standards of proof for discharge of these burdens in civil proceedings
- presumptions in a civil law context
- proof without evidence: formal admissions, judicial notice, estoppel (basic)
- testimonial evidence, evidence in chief, cross-examination, HK's rules relating to witness statements, leading questions v open questions, fair putting of issues to a witness
- the problem of fallible human memory and refreshment of memory rules
- the concepts of previous consistent statements/ previous inconsistent statements – current HK rules in civil trials
- issues of law and substance concerning the credibility of witnesses
- documentary evidence: testimonial and non-testimonial; authenticity
- real evidence with emphasis upon recognition of need for reliability
- hearsay: the concept, the significance of identifying hearsay, how to identify hearsay, the current HK legal regime, alternative approaches suitable for arbitration
- opinion evidence: the nature, inevitability and weaknesses of lay opinion evidence: the nature, uses and limits of expert opinion evidence, the current HK law both substantial and procedural
- the basics of legal professional privilege and the privilege against self-incrimination
- the concept of public interest immunity

Assessment: 58% in-hall examination; 30% small group in-class presentations; 12% class participation

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## **LLAW6160 Legal system and methods**

The aim of the Legal System and Methods module is to provide students who do not have a first degree in law to acquire sufficient knowledge and understanding of the Hong Kong legal system and legal research, legal analysis and legal reasoning. The module will provide an introduction to the Hong Kong legal system and introduce students to sources of law, categories of law, the courts, the civil process in Hong Kong, the personnel of the legal system and other relevant aspects. Students will be trained in the use of legal materials and introduced to the case law process, the precedent system, the legislative process and approaches to statutory interpretation. Students will acquire and develop basic legal skills such as legal research, legal analysis and legal reasoning:

- understand the salient features of the HK legal system which act as a sound foundation for the study of other courses in this degree.
- engage in discussion of a variety of legal issues surrounding the HK legal system and critically evaluate some current issues.
- understand the common law world, in particular the nature of case law and the rules of judicial precedent, as well as the significance of statute and its interpretation.

- understand the principles of the tort of negligence, occupier's liability, trespass, nuisance and their application and operation
- understand and appreciate the potential overlap between tort and contract claims and their remedies
- acquire sufficient legal research skills to locate relevant materials.
- identify crucial issues in hypothetical factual scenarios covering topics of substantive law such as tort, contract and criminal law, apply the law in analyzing the problems and reach a solution.
- understand the current reforms, both in the court system and alternative dispute resolution in HK.

Assessment: 40% closed book mid-term test (will include assessment of tort law topics);  
60% research essay

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### **LLAW6135 Alternative dispute resolution**

The Alternative Dispute Resolution (ADR) course focuses on the prevention, management and resolution of disputes and examines the formal court based and informal out of court dispute resolution processes and procedures. In traditional legal studies, the judicial process (courtroom litigation) is often assumed to be the best means of resolving disputes. This adversarial approach shapes the views of future lawyers about the nature and pattern of disputes, as well as the preferred method of dispute resolution. This course considers a non-adversarial approach by analyzing the form and nature of disputes and examining the various methods of "alternative" (or "appropriate" or "additional") dispute resolution ("ADR"), particularly in the context of Hong Kong and the Asia Pacific region. At the same time, students are introduced to relevant dispute resolution theories and their application and importance in ADR practice and procedure. The course considers both private and public aspects of dispute resolution within Hong Kong and from an international perspective, with particular focus on civil justice reform and innovations in dispute resolution.

At the conclusion of this course, students should:

- Be familiar with the analysis of the form and nature of disputes and their incidence in society, the pattern of dispute resolution, the traditional methods of resolving disputes and the potential impact of various social, economic, legal, political and cultural factors on dispute resolution;
- Be familiar with the broad range of alternative methods of dispute resolution encountered in legal practice, and their use and application in Hong Kong and in the Asia Pacific region generally, as well as in a comparative international context;
- Be competent in critically analyzing and evaluating the various alternative methods of dispute resolution (e.g. their advantages and problems) by considering such issues as the legitimate expectations of disputants, quality of and access to justice, public and private costs of ADR and the politics of informal justice;
- Be competent in evaluating the application of ADR methods in various substantive areas and be able to advise future clients about the potential suitability of various dispute resolution processes and prepare them for participation in these varied dispute resolution processes; and
- Have participated in some simulated negotiation and mediation role-play simulations and developed some basic competency in effectively participating in negotiations and mediations. The critical, theoretical and evaluative material will

be combined with simulated role-playing exercises for a better understanding of the various dispute resolution methods and processes.

Assessment: 80% research assignment; 20% class participation

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*Elective courses*

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**LLAW6007 International dispute settlement**

Disputes are bound to arise on the international level. UN Charter Articles 2(3) and 33 require states to resolve their disputes through peaceful means, which include “negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”. Inasmuch as these peaceful means of dispute settlement are governed by a body of rules and principles, lawyers play an important role in making sure that such means are used in a fair and effective manner. After explaining the history and development of international dispute settlement, as well as the general obligation on states to resolve their disputes peacefully, this course will explore each method in light of the relevant law and cases, with particular emphasis being placed on legal resolution through international courts and tribunals, including international arbitration and resolution through the International Court of Justice, the International Tribunal for the Law of the Sea, and the WTO Dispute Settlement Mechanism. The course concludes by looking at the future of international dispute settlement, including the need for conflict prevention and dialogue, the increasing juridification of dispute settlement, and the problems associated with the proliferation of dispute settlement mechanisms.

Assessment: 80% research paper; 20% class participation

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**LLAW6014 18-credit Dissertation**

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 20000 words (excluding tables of cases and statutes, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

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**LLAW6029 Managing commercial disputes resolution in China: law, issues and techniques**

This course takes students to the areas of significance in the field of dispute resolution in Mainland China, particularly with respect to resolving business and commercial disputes. All major methods of dispute resolution will be examined, including civil litigation, commercial arbitration, and mediation in Mainland China. Some topical issues such as corporate disputes, securities enforcement, private international law, civil

justice reform, and cross-border judicial assistance on commercial matters with Hong Kong, Macau and Taiwan will be looked into as well.

Assessment: 30% mid-term response report; 70% Research paper

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### **LLAW6037 International environmental law**

The past few decades has witnessed the rise of Asia as one of the world's most economically vibrant regions. Asia's economic boom has unfortunately been accompanied by severe environmental degradation. Air pollution, deforestation, biodiversity loss, are just some of the many environmental problems that Asia faces today. In addition, global environmental problems such as climate change are at the top of the international agenda. No longer considered solely the purview of the environmentalist or social activist, environmental regulation and law touch upon nearly all aspects of social, economic and political life.

This course aims to provide students with a contextual understanding of the key global environmental issues of the day and the legal solutions. After a broad survey of the field of international environmental law, this course will focus on some key areas which provide fertile ground for exploring the major innovations and controversies in international environmental governance. These key areas will include hazardous waste, and the illegal wildlife trade.

Classes will be conducted largely in a seminar format. Preparation and participation are crucial. A background in subjects such as Public international law, Global administrative law and Environmental law will be helpful but there are no prerequisites for this course.

Assessment: 50% research paper; 30% take home examination; 20% group presentation

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### **LLAW6054 9-credit Dissertation**

An individual research project on an approved topic carried out under the supervision of an assigned teacher, resulting in the submission of a research paper not exceeding 10,000 words (excluding tables of cases and statutes, notes, appendices and bibliographies). The dissertation must provide evidence of original research work and a capacity for critical legal analysis and argument.

Assessment: 100% research paper

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### **LLAW6082 Corporate governance and shareholder remedies**

This course aims to investigate competing approaches to the concept of corporate governance explored in comparative literature and to canvass major debates on corporate governance reform among academic, business, and policy circles in selected

jurisdictions, primarily Hong Kong and mainland China. The course will examine important corporate governance institutions in select jurisdictions, particularly the legal standards and arrangements for shareholder protection and remedies, as well as regulatory initiatives to promote good corporate governance practices and addressing corporate governance failures. Useful examples from overseas jurisdictions, such as the United States and United Kingdom, will be drawn on to illustrate international experience in corporate governance reform.

Assessment: 100% research paper, subject to prior approval of research proposal

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### **LLAW6099 International commercial arbitration**

International commercial arbitration is well established as the preferred binding mechanism for resolving cross-border commercial disputes. It has seen particularly marked growth and acceptance in the last 20-30 years, including in the Asia Pacific region. The law and practice of international commercial arbitration, while scarcely regulated, has evolved into a highly specialised craft based on international best practices. This course will consider the international and domestic legal framework for international commercial arbitration, as well as the broader regime including international arbitration rules, international arbitration institutions and organizations and international arbitration practices. However, a key focus will be the inside workings of international arbitrations, revealing the sometimes obscure practices of the discipline. The main topics covered include the making and enforcement of arbitration agreements, establishment of and powers of arbitration tribunals, jurisdictional issues, applicable law (both procedural and substantive), arbitration procedure and evidence, interim and final remedies and rendering and enforcement of arbitration awards (including challenges and appeals). The course will be taught with case examples principally from the Asia Pacific region, and extensive examples from the practices of well-known arbitral institutions, such as the ICC International Court of Arbitration, and of arbitrators sitting under the auspices of the ICC.

Students will be expected to have grasped an understanding of the core features of international commercial arbitration as a distinct discipline and to have developed a sense for how to approach technical legal problems that can arise in this field. They should also know their way around the UNCITRAL Model Law and 1958 New York Convention, and be able to apply that knowledge to relevant factual scenarios.

Assessment: 100% take home examination

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### **LLAW6107 Insurance law**

The course covers the operation and regulation of the insurance market; the definition, importance and reform of the concepts of “Insurable Interest” and “Utmost Good Faith”; the specific terms of insurance contracts; how losses and claims under insurance contracts are dealt with; the rights of insurers, including subrogation and contribution;

the rights and duties of insurance intermediaries; and the nature of property insurance, marine insurance, reinsurance and liability insurance.

Pre-requisites: Law of contract

Assessment: 100% take home examination

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### **LLAW6109 Public international law**

Public international law governs inter-state relationships and entities such as individuals, international organizations and so on. The scope and importance of public international law has expanded dramatically in the last century due to increased awareness and studies towards globalisation, escalation of conflicts, environmental issues and human rights violations.

This postgraduate course explores the history, ideas and concepts that shape public international law and practice, and on the relationship between public international law and other ideas and phenomena. It aims to (i) provide a critical introduction to the subject matter and in-depth investigations into specific themes (such as war and peace, territorial disputes, state immunities, international dispute resolutions) and (ii) equip students with the skills and ability to advise on the basics of public international law and to analyze contemporary international legal problems.

Assessment: 25% mid-term examination / assignment; 75% final examination

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### **LLAW6128 International trade law I**

This course will provide students with a practical insight into a number of areas of international trade law and the practices of the Admiralty and Commercial Courts. It will use shipping scenarios to illustrate the various contracts and issues that arise in private international trade.

The course is designed to make students research and use case law, ordinances and international conventions. It is taught in a practical way and requires students to think of commercial solutions to problems.

The course covers the following areas:

- International sale of goods – the contracts and terms found in sale contracts involving an international element
- Marine Insurance – what is covered by insurance and the duties on an insured
- Letters of Credit – the method of financing the sale contract and the obligations on the banks and parties
- Carriage of goods by sea – who has a right to sue the sea carrier of the goods, the obligations on the sea carrier of the goods and whether the sea carrier can sue anyone for their losses

- Jurisdiction and choice of law – in which country a claim can be brought and which law will be applied to the claim
- Litigation – the most useful procedures used in commercial litigation such as security for costs, freezing injunctions, orders for inspection, arrest of ships
- Arbitration – the procedures that apply to an arbitration of a claim

Pre-requisites / Co-requisites: Law of contract I and II and Law of tort I and II

Assessment: 100% take home assignment

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### **LLAW6132 International and comparative intellectual property law**

This course introduces the international framework within which intellectual property law operates, including copyright, patents, trademarks, industrial designs, unfair competition, trade secrets, geographic indications, and other forms of intellectual property (IP). The course examines how multilateral conventions and agreements such as Berne Convention, Paris Convention and TRIPS Agreement shape national IP laws, the role of international bodies such as WIPO and WTO, the effect of bilateral agreements, and other international influences on the development of IP law. The course also introduces the enforcement provisions and WTO dispute settlement mechanism concerning international IP disputes. While devoting special attention to IPRs protection for cutting edge technologies such as biotechnology and information technology, the course also discusses the protection for traditional knowledge and folklore, and the overall implications of international IP protection for global competition between developed and developing countries in an integrated world market.

Prerequisites : Have taken (or concurrently taking) other IP laws

Assessment: 80% take home examination; 20% class participation

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### **LLAW6133 International economic law**

The recent dramatic transformation of the international economic legal order is generally attributed to “globalization”, on the one hand, and liberalization, harmonization and unification of national policies and laws that affect trade, investment, and financial and commercial transactions across national borders, on the other hand. Concerns arise as to the coherence and compatibility of these processes and efforts with respect to national and global economic development, and overall welfare. This is the domain of international economic law; the law and policy of relations between national governments concerning the regulation of economic transactions that have cross-border effects. The course will broadly introduce those areas of international law and institutions that have shaped, or are the resultant of, the recent transformation of the international economic legal order, under three general themes: international trade, investment and competition law; international financial and monetary law; international commercial transactions. It will cover the relevant activities of international organizations such as the WTO, ASEAN, APEC, NAFTA, EU and ICSID. In addition

to trade, investment and competition, the subject matter will include topics dealing with banking, insurance and securities. The role of institutions such as central banks through the BIS and the Basle Committee in the development of regulatory frameworks will be examined. The activities of two Bretton Woods international institutions, the World Bank and IMF, as well as the IOSCO will be studied. Efforts to unify or harmonise laws that affect international commercial transactions by international institutions such as the ICC, UNCITRAL, UNIDROIT, Hague Conference in Private International Law and OECD will also be examined.

Assessment: 100% take home examination

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### **LLAW6141 Regulation of cyberspace: theories of internet and normativity**

The course takes a closer look at the legal and political challenges brought about by the internet and related technologies. The goal is to provide participants with an in-depth understanding of the conflicts involved in the governance of the information environment and equip them with the tools to analyze and assess these conflicts from a normative perspective. This involves two analytical steps: (a) understanding the challenges and limitations of conventional legal institutions on the Internet, especially those administered by the State, and (b) reinterpreting and reinventing these institutions in the context of the Internet.

In order to achieve this goal, the course combines foundational readings with contextual analyses of legal institutions on the Internet. This approach enables participants to make connections between some timeless questions of law and politics implicated in regulation and revisit them in the broader context of networked information technologies. To complement this framework, class discussions will pick up contemporary cases and events to which the concepts and theories will be applied.

The course is not necessarily targeted at students with prior knowledge of the interplay between law and technology, in general, and law and the Internet, in particular. While not focused on any particular jurisdiction, it takes major common law systems as its starting point.

Assessment: 80% final research paper; 20% four notes and queries

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### **LLAW6150 Comparative law**

The common law system provides principles and methods for responding to society's needs and values. Some of those principles and methods will be compared with the legal and extra-legal equivalents in non-common law nations. The influence of special social and economic characteristics will be noted. Appropriate jurisprudential theory will be discussed.

Assessment: 10% presentation; 10% class participation; 80% research paper

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## **LLAW6162 Collaborative law and practice**

This interactive skills-based course will explore two dispute resolution models, the new and innovative collaborative practice model and the mediation model, as they are being developed and utilised within the family law context. The student will learn the basics of interest-based negotiation as it is used in both these dispute resolution models, as well as the conceptual and procedural framework for both collaborative practice and family mediation. The course will explore the use of advocacy (both oral and written advocacy) in both collaborative practice and as counsel in the mediation process. Students will also analyze the future development of both collaborative practice and mediation in the broader context of the Hong Kong community.

Assessment: 40% class participation/role play; 30% in-class presentation; 30% short research paper

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## **LLAW6163 Negotiation: settlement and advocacy**

This course is designed to give students an intensive opportunity to develop negotiation skills which can be used in the global arena to create and repair relationships and to manage and resolve conflict. Classes will consist primarily of inter-active negotiation role play simulations and inter-personal communication exercises, together with some lectures and class discussions. Initially, we will explore personal characteristics, cultural matters and communication skills. Then, we will focus on the acquisition of negotiation skills through inter-active negotiation problems. Throughout the course, we will emphasise critical reflection on the negotiation process.

This Negotiation module will involve an interactive mix of class discussions, small group sessions, student exercise and negotiation role playing simulations. Each seminar has a specific topic and students are provided with assigned readings. The teaching programme is designed to encourage maximum participation of students in the teaching process.

Students must be aware of the following expectations upon by the teacher in this course – all students in the Negotiation course must:

1. Attend all classes, on time and all the time. Each student depends on full and active participation by every other student. This cannot be over emphasised.
2. Be prepared to participate.
3. Prepare written outlines for all Negotiation Problems.
4. Complete all Negotiation Problems in class.
5. Complete and submit a descriptive, analytical journal of the student's progress in acquiring negotiation skills during the course.

Assessment: 50% research paper; 25% outlines and participation; 25% skills journal

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## **LLAW6164 Principles of family law**

Family law is about people in a domestic setting; how domestic relationships are created, dissolved (which involves status alteration), reconstituted (remarriage, adoption), how relationships are regulated and disputes resolved. Hong Kong Family law is both common law and statute-based. However, the rules and principles are not ends in themselves, but they serve certain purposes or goals.

In this course, we examine the basic principles governing the creation of family relationship, termination and its consequences, how does the law deal with the evolving notion of domestic relationships, abuse occurring within such relationships, the protection it offers to the weaker party and the reconstitution of family relationships.

Families are undergoing changes constantly, as is society. Debates on transsexual marriage, same-sex marriage reflect this. Families are the microcosm of society bearing all the pressure which society exerts on its members. The challenge of the course is to understand the problems facing families today, to what extent the law is in tune with these problems, how best these problems could be alleviated, minimised or resolved by law reform or other means.

The objectives of the course is to enable you to learn the basic family law rules, understand how these rules are applied to a particular legal problem (which you need to utilise as a lawyer). As rules are not ends in themselves and they promote certain underlying values – you are required to critically analyses and assess what outcomes/values these rules promote; whether these values are consistent with prevailing societal values along certain theme, such as: (i) effective dispute resolution, (ii) protective (physical/economic) function of family law and (iii) upholding fundamental societal values concerning family, personal relationships and human rights.

Assessment: 45% written examination; 45% assignments and presentation; 10% class participation

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## **LLAW6170 Introduction to information technology law**

Information and communication technologies are part of the very fabric of contemporary societies. Their understanding and mastery are a required form of literacy in the 21st century. Social dynamics everywhere have changed because of ICTs and in the image of these a new social paradigm has been formed. Sociologist Manuel Castells has termed this new social paradigm “informationalism”, in contrast with the idea of “industrialism” that characterized 20th century societies. As a social science, law is not immune to these transformations but is rather profoundly influenced by them, to the point that we can speak of a new stage in legal scholarship and practice – of the Law of the Information Society.

In our course, we keep the name “Information Technology Law” for historical reasons, but our objective is precisely that of empirically assessing some of these transformations which, in its different areas, the law of contemporary societies has been undergoing. While other courses in our programme (for instance, “Regulation of Cyberspace”) question at a higher level of abstraction the normative foundations of such transformations, in “Introduction to IT Law” our aim is to give you an introductory overview of the concrete, practical shifts that the institutions of law have been experiencing in a number of different areas – from Identity and Privacy to Intellectual Property, and from Defamation and Liability in Virtual Worlds to Cybercrime and Jurisdiction.

The focus of our course is on major common law jurisdictions, taking the law in the United Kingdom and in Hong Kong as a starting point. Nonetheless, occasional – and in some areas extensive – references to the law in the European Union will be made.

Assessment: 35% mid-term essay; 65% take home examination

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### **LLAW6171 Corruption: China in comparative perspective**

This course examines the pervasive problem of corruption in the People’s Republic of China in comparative perspective. The course aims to combine theoretical understanding of corruption with the best practice in prevention, investigation and punishment of corruption. Subject matters to be covered in the course include perception of corruption, definition of corruption, theoretical observations, case studies on corruption, anti-corruption system, legal framework, education and whistle blowing, and international cooperation.

Assessment: 100% research paper

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### **LLAW6173 Dispute resolution systems design**

This module will explore the growing trend toward the design and development of dispute resolution systems within the organizations: in the workplace, at the enterprise level, in business-to-business and e-commerce marketplaces, and in other organizational settings. Starting with the historical and legal context, the module will examine the burgeoning field of dispute systems design on the new economy with focus on the potential advantages and disadvantages of this approach to what is arguably the privatization of justice. Students will also be provided with a practical framework to apply dispute systems design concepts in specific situations. The specific objectives of the module are as follows:

- To learn the language and conceptual framework of dispute systems design;
- To examine the latest developments in dispute system design and the goals and policies behind them, with particular emphasis on the implications of complexity studies;
- To identify emerging “best practices” and make future predictions for the field;

- To explore specific, practical examples of existing dispute systems in a variety of settings; and
- To get acquainted with strategies in designing dispute systems and consider how to apply them in particular contexts, drawing upon the experiences and interests of students in the course.

Assessment: 100% continuous assessment

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### **LLAW6174 Family mediation**

Using a combination of lecture, discussion, demonstration, and simulation, Family Mediation will present students with the theory and practice of family mediation, including: a basic grounding in the practice and theories of mediation, an understanding of the many variations of how mediation is actually conducted in family law cases, critical judgment as to when family law mediation might or might not be appropriate in individual cases, a familiarity with legislation involving family law mediation and critical inquiry as to the efficacy of different legislative initiatives, special issues facing mediators in family law mediation, and ethical consideration both as a family law mediator and as an attorney in family law mediation.

Assessment: 20% participation; 30% presentation; 50% written assessment

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### **LLAW6176 Online dispute resolution**

This course will introduce students to the use of information technology as a means of facilitating the resolution of disputes between parties. Despite the prevalent impression that online dispute resolution (ODR) is simply the online equivalent of alternative dispute resolution (ADR), the course will demonstrate to the students that ODR can augment the traditional means of resolving disputes by applying innovative techniques and online technologies to the process. Although the course will focus on the technological application in out-of-court alternative dispute resolutions, it by no means ignores the potential that these technologies have for direct application in the litigation system. The course will examine online negotiation, mediation, arbitration, their combinations or other alternatives. The course has both theoretical and practical value to practitioners and academics.

Assessment: 60% research paper; 40% in-class Moot Court practice

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### **LLAW6182 International organizations**

The first international organizations, created in the 19th Century, were of limited scope and membership. It was not until after the First World War that international organizations took on a more universal nature in tackling common problems for states. Since then, hundreds of international organizations have sprung up to handle many issues that affect, or are seen as affecting, our daily lives. The body of rules that govern

the functioning of these international organizations, as well as the rules that they create, are referred to as the law of international organizations – the subject of this course.

This course has two aims. First, it will provide an in-depth look at this area of law from a traditional perspective. Starting with a general history of international organizations and overview of current international organizations, the course will develop a definition of international organizations, which focuses on international legal personality, and then will develop a framework for classifying international organizations. This course next will explore the sources of power for international organizations, which involves the law of treaties and the doctrines of attributed powers, implied powers, and inherent powers, among other important principles. This course then will compare their structures, decision-making processes (including the settlement of disputes), membership and financing, privileges and immunities, sanctioning abilities, treaty-making powers, and relations with other international organizations, among other aspects. The United Nations, its subsidiary organs and its specialised agencies will be a major focus of the course, though many other international organizations also will be studied. Relevant ICJ, PCIJ and other case law will be given particular emphasis in understanding these powers and functions of international organizations.

Second, with this basic understanding of the law of international organizations, students will be expected to explore contemporary legal debates surrounding international organizations. The course will discuss the problem of responsibility for international organizations and creating limitations on their powers. Indeed, while international organizations first were seen as helping to bring “salvation to mankind,” today they are seen in a less than ideal light, largely due to concerns over their misdeeds and accountability for those misdeeds. The course will explore the problems associated with functionalism – the predominant theory associated with the expansion of international organizations’ powers. The discussion will move on to exploring the possibility of creating limitations and accountability for international organizations through such alternative tools as constitutionalism, judicial review, an emphasis on the rule of law, and global administrative law, to name a few. Other debates to be discussed include the legal status of decisions and resolutions of international organizations in light of the sources doctrine of international law, and whether the differences between international organizations that stem from the differences in their constituent instruments make it impossible to talk of a unified body of law that governs these different entities. Students will be expected to develop their own thoughts on these debates, which they will demonstrate through their participation in class, as well as through the writing of at least four short case comments and either a longer paper on a topic to be chosen by the student in consultation with the professor.

Assessment: 50% research paper; 50% case comments

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### **LLAW6185 China investment law**

This course provides a comprehensive, informed treatment and analysis of the legal, policy and business aspects of foreign direct investment in China. Areas covered include: current PRC foreign investment policies and priorities, including “encouraged

industries”; investment incentives and investment protection; PRC regulatory authorities and government approval process; offshore structures; PRC foreign-related business and investment organizations: representative offices, branches offices, holding companies, foreign investment enterprises (FIEs): Sino-foreign cooperative and equity joint ventures, wholly foreign-owned enterprises (WFOEs), listed and unlisted Sino-foreign joint stock limited companies (JSLCs); practical joint venture contract drafting and operational issues; trading and distribution; technology transfer; conversions; mergers and acquisitions; selected regulatory issues: corporate income taxation, foreign exchange control; FIE debt and equity financing; out-bound China investment.

Assessment: 100% research paper

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### **LLAW6186 China trade law**

This course provides a focused, legal and policy treatment of China’s conduct and regulation of international trade at both the macro- and micro-economic levels. Areas covered include: China’s participation in the WTO, and in other multilateral, regional and bilateral trade-related arrangements, including ASEAN+ and China-ASEAN FTAs; Regulation of China’s foreign trade: PRC regulatory authorities, PRC Foreign Trade Law, foreign trade operators (FTOs), foreign trade agency: commissioning and entrustment arrangements; PRC Customs, licensing and inspection/standards systems, and trade remedies: particularly, China’s anti-dumping regime; WTO, US and EU anti-dumping and subsidies/countervailing codes and related non-market economy (NME) treatment of China’s export enterprises and industries; Trade transactions: standard-form contracts, import-export sales contract issues arising under the PRC Contract Law and CISG.

Assessment: 100% research paper

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### **LLAW6187 Advanced topics in competition law**

This course focuses on the interface between intellectual property laws and competition law in the two leading competition law jurisdictions in the world: the US and the European Union (“EU”). The interface between these two bodies of law is one of the most complex and controversial, and yet theoretically interesting, areas of competition law. This interface juxtaposes the public policy rationale behind intellectual property laws and competition policy, and requires the enforcement agencies and the courts to strike delicate balances between these two policies. With respect to patent law, for example, the treatment of patent rights under competition law requires the courts to calibrate the provision of innovation incentives without incurring an excessive loss in consumer welfare. Similar tradeoffs are also found in the interface between copyright law and competition law, and to a lesser extent, between trademark law and competition law.

Most of the thorniest issues in the interface between intellectual property laws and competition law arise under patent law. As such, this course will largely focus on the

patent competition interface. The first half of the course will focus on the treatment of the exercise of intellectual property rights under US antitrust law, with topics including intellectual property enforcement, tying, unilateral refusal to deal, deceptive conduct in standard-setting organizations, predatory product design, and various kinds of collusive conduct. The second half of the course will cover similar topics under EU law.

Assessment: 100% two take home examinations

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### **LLAW6196 Preventative law: approach to conflict prevention**

Lawyers can play a key role not just in the resolution of disputes, but also in the prevention and management of conflicts within organizations and societies. This course will explore key processes through which a system is consciously created to address a stream of conflicts among individual and entities, as well as legally defined disputes. Similar to the public health model, which aims to promote positive individual and collective habits that stem the occurrence of disease, this course seeks to examine those mechanisms, principles and processes oriented toward the prevention of conflict. The approach of the course will be both theoretical and participatory in nature.

Assessment: 75% research paper; 25% class participation

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### **LLAW6207 Corporate conflicts**

With increasing globalisation many corporations today operate beyond their domestic borders. Many businesses operate transnationally by means of a multinational group structure or through the medium of a joint venture. This course seeks to introduce students to the issues that arise in dealings with corporations that have a presence in more than one jurisdiction.

Some of the issues which we will be looking at are: What laws regulate companies that are incorporated in one jurisdiction but operate in another? How are mergers and amalgamations of corporations done when corporations operate in a number of jurisdictions? What are the issues that arise in the transnational collapse of corporations such as those we have witnessed in recent years? How are they dealt with?

The financial and securities markets are grappling today with issues arising from dealings in securities from multiple jurisdictions. We will also consider these issues.

The course will be useful to those who intend to have a corporate practice, or to work in the corporate, securities or banking sectors.

Assessment: 20% presentation and defense of paper; 80% research paper

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### **LLAW6211 World trade law, policy and business**

This course may only be taken by graduate students. While there are no pre-requisites and no prior knowledge is required, the course is designed to be especially attractive to students who have taken Global Business Law I, or International Economic Law. It is not, however, open to graduate students who have previously taken Global Business Law II.

The course is tailor-made for graduate students who, in past years, would likely have taken Global Business Law II instead. Unlike Global Business Law II, the current course provides students with the opportunities to write a paper of no more than 6,000 words comprising 50% of the examination, and incorporates materials on the policy and business aspects of trade in East Asia (China, Korea and Japan). The course will also address specific policy and business challenges in other Asian countries and sub-regions (e.g. Vietnam, Southeast Asia more generally, and India).

Assessment: 50% take home examination; 50% research paper

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### **LLAW6214 Current issues in Chinese law**

This course will highlight one or more areas of contemporary Chinese commercial law and practice of importance to foreign trade, investment or finance in the People's Republic of China. The subject matter to be covered in the course is not fixed and will vary from year to year. Students will be apprised in advance of the subject of the course to be offered. A reading knowledge of simplified Chinese characters would be desirable.

Assessment: 100% research paper

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### **LLAW6217 Culture, diversity and power in dispute resolution**

This course will examine the dimensions of culture relevant to dispute resolution, including diverse identities, perceptions and world views. Using short lectures, experiential exercises, dialogues and discussions, students will explore the various processes, capacities and tools that can be used to bridge intercultural disputes. Drawing on current interdisciplinary literature and case examples from scholarly and personal sources, participants will:

- explore interpersonal and intergroup dynamics of intercultural disputes;
- learn about the processes to address deep rooted intercultural conflict;
- examine and critique cultural dimensions of conventional dispute resolution processes, including in person and online mediation;
- analyze implicit meanings and cultural values of a continuum of dispute resolution processes as applied in a variety of sectors and settings, including private and public sector organizations and communities;
- identify ways that chaos and complexity theories inform conflict analysis and implications for dispute resolution process design;

- experience imaginative and creative tools for transforming cultural disputes;
- experiment with somatic, arts-based methodologies including applications and limitations in inter-cultural dispute intervention; and
- apply cultural fluency in a range of case types and practice settings through small group discussions and practice outside the classroom.

Assessment: 80% research paper; 20% written assignment

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### **LLAW6222 Financial dispute resolution: Hong Kong & international perspectives**

The course will focus on the new financial dispute resolution regime in Hong Kong and the establishment of the Financial Dispute Resolution Centre (FDRC) and what these developments may signify for the future of resolving financial disputes in Hong Kong. In addition, the course will provide a comparative overview of financial dispute resolution from some selected markets globally. In response to increasing investor participation in financial markets, regulators and governments have sought different ways of responding to investor-broker disputes. This course will analyze these different approaches and discuss the impact of legal systems, markets and cultural preferences. The course will consider what choices have been made by Hong Kong in order to adapt to local circumstances and will challenge students to assess these choices in the light of global experience. The design of dispute resolution systems can be key to their success. Students will be expected to understand who the stakeholders are in financial disputes, what their specific needs are and how the Hong Kong FDRC may address these concerns. The class will be assigned reading in advance of class. Students will be expected to participate in discussions and role-plays during class.

Assessment: 20% class participation; 20% individual presentation; 60% research paper

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### **LLAW6227 Introduction to private international law (Conflict of laws)**

The field of private international law, otherwise known as “the conflict of laws”, is a body of principles by which Hong Kong courts deal with cases involving a mainland or overseas element. It is particularly important in this jurisdiction. Hong Kong’s economy is an intersection of many different people and places, including the mainland and elsewhere in Asia, as well as Europe and the Americas. Therefore, a significant proportion of disputes here have a connection outside of Hong Kong. An understanding of the conflict of laws will be useful to you as members of Hong Kong’s legal profession and if you are involved in international business.

In private international law, there are three questions that a judge must ask himself or herself. The answers to those questions form the backbone of this course:

- Is it appropriate for me to exercise jurisdiction in this dispute, even though it is connected in some way with a place outside Hong Kong?

- If I decide that I will exercise jurisdiction, is it right for me to apply only the law of Hong Kong to the dispute? Or does its “foreign element” mean I should, to some extent, apply the law of some other jurisdiction?
- Has the dispute already been the subject of a decision by a court outside Hong Kong? Should I somehow give effect to that decision within Hong Kong?

The aim of this course is to giving you a working knowledge of private international law so that you can competently advise your clients on such issues.

Assessment: 100% take home assignment

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### **LLAW6230 Law and practice of investment treaty arbitration**

This course is about a form of arbitration which is specific to disputes arising between international investors and host states – i.e. investor-state disputes – involving public, treaty rights. In contrast, international commercial arbitration typically deals with the resolution of disputes over private law rights between what are usually private parties.

It will be of interest to those interested in arbitration, or the law of foreign investment.

The course will be taught from the viewpoint of a commercial law practitioner, and international lawyer and former treaty negotiator who has drafted such treaties.

Assessment: 50% take home examination; 50% research paper

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### **LLAW6237 International arbitration: practice, process and strategy**

The course will introduce students to the practice of international arbitration with a focus on administered arbitration (utilizing the HKIAC Administered Arbitration Rules) and investment arbitration. Utilizing a case study as the basis for the course, students will apply the theory of arbitration to a mock case. The course will provide students with the opportunity to manage a case from the beginning to the end. From negotiating and drafting an arbitration clause to drafting pleadings, students will have the opportunity to enhance their legal writing skills in the context of an arbitration. Students will also learn how to strategise and learn the various options available during the course of an arbitration (mediation, negotiation, settlement, etc). An investment arbitration component will be incorporated into the case study whereby students will learn how to navigate the investment arbitration process and options. Mock hearings will also take place before eminent arbitrators in the industry. The class will be assigned reading in advance of class. Students will be expected to participate in role-plays and teamwork during class.

Assessment: 20% completion of a final research paper; 80% class participation, written assignment and oral presentation in class

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## **LLAW6238 Comparative arbitration in Asia**

The course will survey the arbitration laws in major jurisdictions in Asia, including but not limited to Hong Kong, Singapore, China, India, Korea and Malaysia. For the sake of comparison and analysis, reference will be made to the UNCITRAL Model Law and the laws of major European arbitration centers. In addition, the course will survey compare and contrast the various approaches taken by arbitral institutions in these regions (such as HKIAC, SIAC, CIETAC, etc.) with respect to procedural and other matters. Again, reference to the UNCITRAL Model Rules and the rules of other major arbitral institutions (such as the ICC and the LCIA) will be useful for comparison and analysis.

Notwithstanding reference to UNCITRAL and other materials, the course will focus on the laws and procedural rules in use in the Asia-Pacific region, in particular Hong Kong, Singapore, China and India. In addition, although the course will take a comparative approach to these laws and rules across jurisdictions in the region, the interaction of state law and institutional rules within a particular jurisdiction will also be the subject of analysis and discussion. Finally, cultural and other issues which may impact the practice of arbitration in a given jurisdiction will be explored.

Students will be assigned reading in advance of class, and will be expected to participate in discussions and role-plays during class.

Assessment: 80% take home examination or research paper; 20% class participation (a set of assessment rubrics will be developed to assess class participation)

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## **LLAW6241 Arbitration Award Writing**

This course provides students with the knowledge required to analyze arbitral submissions, arrive at a conclusion and write a final, reasoned and enforceable arbitration Award in compliance with the UNCITRAL Model Law and Arbitration Rules. In accordance with the Chartered Institute of Arbitrator's (CI Arb) Module 4, this course focuses on the processes followed by an arbitrator in defining the issues that have to be decided by an Award, dealing with the submissions made by the parties, analyzing the appropriate law, evaluating the evidence, applying the law to that evidence, arriving at a conclusion and then writing a final, reasoned and enforceable Award. It is therefore valuable for students wishing to understand the processes involved in award writing. It is also an essential requirement for qualification as a Fellow of CI Arb and for those who aim to practice as an international arbitrator.

Pre-requisites:

- Students or graduates of the HKU LL.M. in Arb & DR programme are required to pass the following compulsory courses:
  - LLAW6135 Alternative Dispute Resolution
  - LLAW6138 Arbitration Law

- LLAW6157 Arbitration Practice, Procedure and Drafting and must achieve a minimum 55% (grade C for admission before academic year 2012-13 or D+ from 2012-13) in LLAW6157

AND

- Non-law students or graduates also need to pass the following courses:
  - LLAW6160 Legal System and Methods
  - LLAW6158 Contract Law
  - LLAW6159 Evidence

Assessment:

- A written assignment to be submitted during the course (20%).
- A 4-hour open book final examination (80%).
- For CIArb credit, candidates must achieve a minimum of 70% in the examination.
- The assignment and examination are both Award writing exercises. The Award must be reasoned and enforceable. Any candidate that submits an unenforceable Award will be deemed as a fail and awarded zero marks.

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### **LLAW6252 Construction of commercial contracts**

This LLM elective is designed to provide students with an understanding of the principles of construction of commercial contracts. Unlike the substantive law of contract, construction of contractual terms is essentially intuitive in nature, with no rules but, rather, with fundamental guiding principles which have evolved from a large body of case law and, indeed, continue to evolve. It is, therefore, essential that any commercial lawyer has a solid grasp of such principles so as to enable them to anticipate how contractual terms are likely to be interpreted by the court for the purposes of giving advice and drafting contractual documents.

Other than examining the guiding principles of contractual construction, the course will also consider related concepts, such as implied terms, rectification and estoppel by convention, which are also highly relevant to the overall construction issue. To this end, the course will draw on, develop and deepen the knowledge acquired from their undergraduate study of the Law of Contract.

Prerequisite: Students must have previously studied (and passed) the law of contract

Assessment: 80% take home assignment; 20% group project

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### **LLAW6267 Courts**

This course takes an interdisciplinary, comparative, and empirical perspective on politically relevant questions concerning the design and operation of courts. Potential

topics include the manner in which social scientists study courts; the nature and basis of judicial power; the practical effects of judicial review; the different ways in which a system of judicial review can be designed; the role of courts in nondemocratic environments; the challenges of defining and achieving judicial independence; and the dynamics by which courts expand into the domain of politics. Students should be prepared for copious reading assignments commensurate with a graduate-level course in the social sciences and consisting primarily of academic scholarship rather than cases. The readings are intended to introduce participants to the major debates and empirical arguments found in the scholarly literature on courts. The course will be conducted as a true graduate seminar, meaning that class time will consist primarily of collective critical discussion of the readings rather than passive absorption of the instructor's views. Each week, students will be required not only to demonstrate knowledge of what is in the readings, but also to offer their own evaluation and critique of the empirical arguments found in the readings and to articulate arguments of their own. The expectation is that students will engage in critical and original thinking and become active participants in the scholarly debate rather than passive consumers of scholarship produced by others.

Assessment: 30% research paper, 50% reaction papers, 10% oral presentation, 10% participation

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## REGULATIONS GOVERNING THE FORMAT, BINDING, AND PRESENTATION OF DISSERTATIONS FOR HIGHER DEGREES BY COURSEWORK

1. Each copy of a dissertation shall be typewritten or printed on one side only of International size A4 paper<sup>1</sup> (except for drawings, maps, or tables on which no restriction is placed), with a margin of not less than 38mm on the left-hand edge of each page.
2. The appropriate Board of the Faculty shall decide whether any dissertation submitted successfully in part-fulfilment of a higher degree by coursework shall be an accession to the University Library.
3. If it is to be an accession to the Library the top copy of the dissertation shall be used, and bound in one or more volumes as determined by the Librarian and between boards faced with cloth in black for MA, MPA, MMedSc, in dark blue for MSW, MBA, and in green for all others. The title, name of author, degree, and date shall be lettered in gilt on the front cover and spine in accordance with the standard layout approved by the Librarian. The title of a dissertation written in Chinese shall be lettered on the cover in Chinese and English.

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<sup>1</sup> 297 mm x 210 mm

N.B. Candidates for higher degrees are reminded that any dissertation not typed or printed on the correct paper will not be accepted. Any candidate who has difficulty in obtaining the paper should consult his Faculty Office.